

REMARKS

Claims 16 - 25 are in the application. Claims 1-15 have been canceled; claims 16 and 17 are currently amended; and claims 18-25 were previously presented. Claim 16 is the independent claim herein.

No new matter has been added to the application as a result of the amendments submitted herewith. Reconsideration and further examination are respectfully requested.

Claim Rejections Under 35 USC § 112, 2nd Paragraph

Claims 16-25 were rejected under 35 U.S.C. 112, 2nd, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner stated that the metes and bounds of the recited Financial Accounting Standards Board Statement No. 133 (hereinafter, FAS 133) are unclear, as demonstrated by an amendment of FAS 133 by FAS 138.

In an effort to advance prosecution of the application, claims 16 and 17 are currently amended to remove the recitation of "FAS 133". Accordingly, it is respectfully submitted that the perceived indefiniteness noted in the Office Action (not admitted by Applicant) is obfuscated by the amendments of claims 16 and 17 submitted herewith. That is, the cited source of the alleged indefiniteness (i.e., reference to "FAS 133") has been deleted from the claims.

Claim 16 has been amended to (1) remove all recitations of "FAS 133", and (2) to clarify that which is claimed by Applicant. For example, claim 16 now states, regarding the claimed derivative account, "wherein a change in mark-to-market value of the derivative account is accounted for through quarterly earnings". Claim 17 has been amended to remove all recitations of "FAS 133". Support for the amendments to claims 16 and 17 may be found in the specification as originally filed at least at page 9, ln. 12 – page 10, ln. 15.

Therefore, Applicant respectfully submits that claim 16 and 17 are definite under 35 USC 112, 2nd paragraph. Claims 18-25 depend from claim 16. Accordingly, Applicant respectfully submits that 16-25 are definite under 35 USC 112, 2nd paragraph and requests the reconsideration and withdrawal of the rejection.

Requirement for Information under 37 CFR 1.105

Per the Requirement for information under 37 CFR 1.105, the Examiner requested a copy of:

- (1) FAS 133;
- (2) C++ code embedded on a computer readable medium for performing the invention of claim 16; and
- (3) the names of any products or services that have incorporated the claimed subject matter of FAS 133 or any predecessor Accounting Board Statements directed to Derivative Accounting.

In reply to the requirement for information, Applicant includes herewith a copy of FAS 133 dated (213 pages) and a FAS Summary (2 pages), both of which were obtained from the website www.fasb.org.

Applicant respectfully acknowledges and appreciates the broad discretion granted to the Office to request information under 37 CFR 1.105. However, it is not apparent that the request for C++ code embedded on a computer readable medium for performing the invention of claim 16 is "reasonably necessary to determine the state of the art, the context in which the invention is practiced, the directions in which the relevant art are advancing, the similarity between the claimed subject matter and other art worked on by the applicants and their assignees or to otherwise proceed in the examination and treatment of matters in an application." (See MPEP 704.12(a))

Instead, the request for the code appears to be an improper request of, for example, proof of a reduction to practice of the invention by Applicant.

Moreover, the requested code is not readily available.

In light of the fact that claim 16 does not currently recite FAS 133, the relevancy or necessity to provide the requested names of products or services that have incorporated the claimed subject matter of FAS 133 or any predecessor Accounting Board Statements directed to Derivative Accounting is not seen or understood by Applicant. That is, the requirement requests information related to the claimed FAS 133, but Applicant does not claim FAS 133.

Furthermore, the requested compilation of names of products or services is not readily available.

Applicant herein makes a *bona fides* attempt to fully respond to the Requirement for Information under 37 CFR 1.105, considering the claim amendments submitted herewith. Accordingly, Applicant respectfully requests the consideration and acceptance of the information provided herewith (i.e., copy of FAS 133) and/or a withdrawal of the Requirement for Information under 37 CFR 1.105.

However, should the Examiner find the response to the Requirement for Information under 37 CFR 1.105 insufficient, Applicant respectfully requests the Examiner contact the undersigned at the telephone number below to avoid delay or abandonment of the prosecution of the application.

CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

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Date



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